MR. WEBSTER.

We have recently received the following complaining letter, to which we give place, as we are disposed to be liberal to all sides. As to pleasing all, that is out of the question, especially where Mr. Webster is concerned. We feel sorry to have exposed ourselves to the censures of our correspondent, but we hope to be forgiven on the ground that we desire to speak well of the dead.

sire to speak well of the dead.

To the Editor of The N. Y. Tribune:

Wednesday, Jan. 26, 1853.

Dans Sis: Since your rejection of my Sermon against Mr. Webster, because so long a time had elapsed since his death, and because so much had already been published in The Tribune respecting him; since then I have seen in your columns several calogistic notices of him, besides the speeches made, as a matter of course, in the Senate. Last week you gave us pretty full reports of culogies delivered in New-Haven and Philadelphia.

Now Sir, is it the purpose of the conductors of your journel, which, perhaps, exerts a wider influence than any other in our country, to give the weight of its influence to hold up Mr. Webster as a moral man, or as an object of admiration to the young men of our country?

Forty or fifty columns of your paper, since last October, have been given to the praise of that great, bad man, and only two or three to the condomnation of his course. Not more than two or three columns of Theodore Perker's Sermon were in dispraise of Mr. 5, and I have seen little cless to the same effect in The Tribune Now, Parker's was an almirable analysis of Webster's character, excepting that the passed too lightly over his terrible vices. I sincerely regret that so few Ministers have dared to hold up Mr. W. to sjust reprobation.

I am aware that there is but little potency in my word. Still, I am as responsible for the use of it as if it were the most mighty in the land. I have endeavored to speak of Mr. Webster with only just severity; and I have felt very much disappointed that you have refused me the use of your columns.

My discourse has been published, but it will not reach one tenth part of the number of people it would reach if published in The Tribune. And what is most to be deplored, even the thousands and tons of thousands who have known or heard that the was intemperate and sexually licentious, will be given to understand that, nevertheless, the Editors of The Tribune dalight to do have a consider that the so

doce. Yours truly.

CHIHUAHUA.

From the Missouri to the Gila.

Correspondence of The N. T. Induse.

Chinuanua, Thursday, Nov. 25, 1852.

I left Independence, Mo., the 17th of August, with a train of Messrs. H. Mayer & Co., bound to this also wishes. to this place, where we reached yesterday, with out having met with any misfortune on the road. If I am not mistaken in supposing that some remarks to which the observations made on this trip and during my further stay here, may give occasion, will not appear to your readers devoid of interest. I may hope you will deem a few letters which I will take pleasure in addressing to you, worthy to fill some columns of your paper. I know very well that since the Mexican war even the remotest part of the country through which this journey has led me, has be-come much better known than it was before, and that it has lost by this circumstance not only a part of that interest which we generally find in the distant and unknown, but also a good deal of that romantic color which a natural disposition of our mind uses to cast over it. The reports of talented and accomplished officers of the U.S. Army and of scientific travelers, who were placed in a more favorable situation than the mere private member of the train of a trader, are in the hands of the public of the United States. More light yet will soon be spread, I expect, over these interesting regions, by the reports of the Boundary Commission. Different observers, however, not only see things often in a different light, but are very often placed under different circumstances which allow the one to see what is not equally laid bare to the view of the other. Thus my unpre-tending observations, without claiming to combete with those of a higher merit, may nevertheless have a certain degree of interest.

Let me first make some remarks relating to the geography and geology of the country be-tween the Missouri River and northern Mexico. In a second letter I shall then communicate some interesting facts in relation to the moral state of the inhabitants of the same region of the Mexican population, and of the Indian hordes and clans who infest its territory, destroying or driving away the last remains of those immense herds of horses, mules and cattle which formed once so essential a part of the riches of opulent Mexico, and carrying away women and children, which they now offer for sale or for prostitution to the traveler from the

east who meets them on the plains. Along a part of the eastern limits of New-Mexico, our train followed a road little known to the traders, and even not marked on the official map of that territory, newly published From Los Vegas, the first Mexican town on the SantaFé road, we took a more eastern route than any laid down on the map, running between two ridges of sandstone moun tains and falling in with another eastern track a little better known and marked on the map just mentioned, at Anton Chico. From that little town, situated on the Rio Pecos, and surrounded by rich cornfields, we again left to the west all the tracks usually traveled by traders, and all the habitations of New-Mexico. We passed even east of Manzanas, and ultimately traversed the mountains which form the eastern side of the valley of the Rio Grande in a broad and deep gap, which begins at the ruins of Cuthe traveler, seeing before his eyes the half broken walls of a large and massive Christian church, with some rough ornaments of Byzantine architecture, and the ruins of some other large stone buildings, might fancy himself suddenly transported from the midst of the American wilderness to some romantic spot of old Europe. High timbered mountains in the rear, and fine tall pine trees in the fore-ground, easting their shade over a little stream of clear water,-a sight so rare between the States and Chihanhua—give an uncommon charm to this place, which, like the neighboring Avo, was once a mission of the Spanish among the Indians of the most castern part of Mexico, and must have been destroyed by them in that revolution of the Indians, which drove the Spaniards, I forget at what exact time, from Santa Fe, and made them build El Paso, from where they afterward reconquered the upper country.

This new road leaves aside the rocks and the deep sand of all the more western tracks, runs over very high, smooth and level plains, though it is not without some rocky ascents and descents, and ultimately reaches the Rio Grande a few miles above La Toya. Those who know all the different roads through this part of the country, prefer this to those more to the west, and recommend it to the traders, though we found water rather scarce in some parts, and grass very indifferent at some places. The Ojo del Verendo or Antelope spring, however is said never to be without water, which is of crystal clearness and forms a little lake only a few steps, from the spring. Of wood, red cedar and pine, there is pienty on the greater part of the road. The descent into the valley of the Rio Grande is rather rough and steep and occasions a very

sudden change of scenery.

The geology of that part of the American continent which extends from the Missouri River to North-eastern Mexico, is comparatively simple, but even from that simplicity uncominstructive and interesting. I was in a great error when I expected to recognize a dis-tinct limit between the plains of the Mississippi basin and the Mexican table lands. Not only the general level of the continent rises entirely in a gradual manner, but even those isolated groups and ridges of mountains, which are scat-tered over Mexico, begin, on a small scale, as far east as the middle course of the Arkansas. showing geological phenomena which find their full explanation only when the traveler reaches the borders of the Rio Grande. Here he sees the sandstone and limestone strata of the plains, very often in the same nearly horizontal posi-

tion, lifted up to an elevation of seven, eight, or

more thousand feet, and forming the surface of those singular tabular mountain masses, which are called " mezas," and form so striking a figure in the physiognomy of New Mexican landscapes. On the abrupt sides of these table mountains he at last will find the petrifications determining the real geological character of the strata over which he had been traveling so long in the plains-vegetable remains in the sandstone, shells in the limestone. Those singular strata of scoriacions masses which former travelers have been astonished to see near the Little Arkansas, on the Pawnee Rock, at the Pawnee Fork, &c., covering the strata of that same sandstone and limestone, or of a conglomerate of sand and pebbles in a limestone cement :- he will find beyond the Cimarron, at the Rabbit Ears, at Round Mound, at Wagon Mound, in the Paton Mountains, near the Rio Vermejo and the Ocaté. They are strata of a sandstone half scorified by the contact of basalt or basaltic lava, which overflowed it; they were left on the surface by the decomposition of these volcanie masses. From the want of alkaline silicates in the composition, this scorified sand-stone is better able to resist the influence of atmospheric agencies, and protecting, by its superposition, the lower strata of sandstone or lime-stone. Thus it causes the existence of those few rocky hills, which, though of very small elevation, yet form very conspicuous objects in a plain of thousands of miles in extent. The peb-bles, too, which you may collect at the Pawnee Rock or on the Caches of the Arkansas, forming the chief material of a coarse conglomerate. you will find to be of the same basalts, trachyte. porphyry, granite or sienite, which form the tocks in situ of mountains situated half a thousand miles further to the west.

And as the rocks of Northern Mexico begin as far east as the Little Arkansas, so the plains of the Missouri, on the other side, surrounding isolated groups and ridges of mountains, extending in narrows, like the straits and sounds of an ocean, between them, and which fill, with a slight depression, the valley of the Rio Grande, continue west of h, in the plains of the Gila, which again sink down gradually in the direc-

tion of the Pacific.

The same gradual transition as in the geological formation is to be observed in the character of the vegetation. Just at the Little Arkansas, where you observe the first masses of scorified sandstone, with pebbles of different volcanic rocks, you will see, at the very same small rocky hills, the first cactus and the first yacca, and these plants, so characteristic of Mexican vegetation, gradually increase in number and size as you proceed to the west or south-west. Coming from the east, you gradually see some plants-luxuriant in the prairies of Missouri-becoming smaller and smaller in size, changing even their whole physiognomy, till they giv way at last to the influence of a soil and climate unfavorable to their existence—while new plants appear, at first in small number and size, and ist as gradually augment and improve till you will find them in their full perfection on the Rio Grande, or on the high plains in its neighbor-hood. The high prairies between the mountain chains of Northern Mexico, the Jarnada del Muerte, or Journey of Death, on the castern side of the Rio Grande, the plains of Carisal and Encinillas, covered with the richest carpet of the finest grass, appear just like tracts of land cut out of the eastern prairies and transplanted here between the mountains and rocks which contain the silver of Mexico.

When the traveler from the east anives at

Las Vegas, the first Mexican town, he at length sees himself at the foot of that mountain chain to which he had long been gradually approaching in an oblique direction, and at leng pears as if he could no longer avoid climbing these rocks of sandstone whose st. 'a. steeply inclined to the east, and bearing a thin forest of scattered pine trees, form the very surface of the mountain sides. But following the road a mile or two beyond the town, he soon finds himself at the entrance of a narrow gap passing through the chain. On level ground between nearly perpendicular rocks he passes through into a sys-tem of valleys, in which, by different ways, he may reach the Rio Grande without surmounting any of the mountain chains which surround him on all sides. Continuing then his voyage down the valley of the Rio Grande as far as the last towns above the Jornada del Muerte, he may pass through a wide depression between the mountains west of the Rio Grande, and arrive at the Gila, on the verge of the Pacific, without having climbed a chain of mountains. Through this wide gap, the eastern plains communicate with those of the western verge of the Continent, and thus it is beyond doubt that the whole extent of country from the shores of fornian Gulf v be passed without surmounting any chain of JULIUS FREBEL. mountains.

Aztec Picture-Writing and The New-Orleans Picayune.

NEW-ORLEANS, Friday, Dec. 31, 1852. To the Editor of The N. Y. Tribune:

SIR: The New-Orleans Picayune, in its number of the 1st April last, published an account of a volume of great antiquity, which, as it was stated, had been found in Coaxcheneingo, the mysterious city of Yucatan, and which, as the writer of the article supposed, might throw some light on the origin of the strange and mysterious race of Artees. The circumstance that on one or two pages of the volume, immalistely beneath the hicroglyphics, inscriptions in Greek characters, written backward, in the Oriental style. were discovered, led the anonymous author in The Picayune to the further supposition, that these hiergglyphical signs and Greek words were the handwrit igs of some learned Jewish priest, and that the Artees were nothing less than the direct descendants of the Jews, emigrants from the eastern shores of Asia, one of the lost ten tribes.

When we arrived here from our tour through the

Western States, a short time ago, we found several letters from our learned friends in Washington and Boston, who requested us to call on the editor of The Picayane and to get some more decisive information on the matter. The Editor, without giving us time to ex-plain our increduality, immediately stated that the winde count in his paper was a hear, and evidently displeased with its consequences, aided, as an excuse, that the article was published on the first of April, all fool's day. This licensed day for deceptions is every year liberally used by the Editors of The Pleaguage to get up a hoax! The deception of this year must have been so much greater, as the same number contained on another page a long article on "Literary Impostures," Yours, Dr. KARL SCHLILDER.

SCARCITY OF SALT AT BONAIRE AND TURKS ISLAND.-Capt. Dunscomb, of the brig Walhonding, arrived at this port yesterday from Bonaire vid Turks Island Jan. 24, reports being unable to procure a cargo of salt at the former place on account of its scarcity. He also reports that salt was very scarce and high at Turks Island

EARTHQUAKE AT FAYAL .- Capt. Merrill, of ship St Thomas, arrived yesterday from Cardiff, Wales, vid Faval, reports that there were two shocks of earthquake at Fayal on the night of the 12th Jan .- one of which was quite heavy, and caused considerable uneasiness among the inhabitants.

Excerpta.

"Who is this that cometh up from the widderness, leaning upon her beloved!"
"Thou hast ravished my beart, my sister! my spouse! dark-haired and childlike baster sking permission to Thou hast ravished my beart with one of thine of the cyes, with one chain of thy sch. How fair is thy love, my sister!" I am black, but comely, O ye daughters of Jerusalem; as the tents of Kedar, as the curtains of Solomon. Look not upon me; my mothers of Kedar, as the curtains of the family union."

Solomon Look not upon me; my mothers children were angry with me." [Rex Sol in Cant.]

Mormon Marriage.

The Seer continues its exposition of Celestial Marriage, as it calls the murriage institution of the Mormon Church. We make the following extracts:

Mormon Church. We make the following extracts:

When a man who has a wife teaches her the law of God, as revealed to the ancient partiarchs, and as minifested by new revelation, and she refuses to give her consent for him to marry another, according to that law then it becomes necessary for her to state before the President the reasons why she withholds her consent. If her reasons are sufficient and justifiable, and the husband is found in the fault, or in transgrassion, then he is not permitted to take any step in regard to obtaining another. But if the wife can show no good reason why she refuses to comply with the law which was given unto Sarah of old, then it is lawful for her husband, if permitted by revealation through the prowas given unto Sarah of out, then it is tawtul of new hushand, if permitted by revelation through the pro-phet, to be married to others without her consent, and he will be justified, and she will be condemned, because she did not give them unto him, as Sarah gave Hagur to Abraham, and as Rachel and Leah gave Bilhah and Zil-

Abraham, and as Rachel and Leah gave Bilhah and Zilpah to their husband, Jacob.

It is the duty of a man who takes another wife to look
after her welfare and happiness, and to provide for her
the comforts of life the same as for the first; for the
Scripture, in speaking of such a man, seys: " If he take
him another wife, her food, her raiment, and her duty of
marriage, shall be not dimitish." (Exadus 21, 10.)

There is no particular rule as regards the residence of
the different branches of a family. It is very frequently
the case that they all reside in the same dwelling, and
take hold unitedly, and with the greatest cheeringess.

tions to the Most High.

It is cometimes the case that the bushand provides for his wives separate habitations, as Jacob did for his four wives, each of whom had a separate tent. (See Genesia, 31, 32). Where all the wives are equally faithful the husband generally endeavors to treat them all without

dulge such a passion, they would bring a disgrace and reproach upon themselves which they could not easily wipe away. And, indeed, it is very rare that there are my causes for jealousy, for the citizens of that Torriory think more of their virtue than they do of their lives. They know that, if they have any connections out of the marriage covenant, they not only foriest their silves by the law of God, but they foriest their salvation also. With such views resting upon the minds of both old and young, the people have the greatest confidence in each others integrily; they can entrust their wives and daughters, without any distrust, to the protection and care of their neighbors. Under the strict and right laws of virtue which prevail, and are carried into general practice, wives are not in constant feer of the inconstant you their husbands; parents are not fearful of their children being seduced and their characters being destroyed; neither are they feerful that their children will form contracts of marriage without their constant, for

ing violated the law of God, and it is discoult for him to recover from the disgrace.

There are more quarrelings, and Jealousies, and disunions, and will speakings, in one week, among twothousand families, taken at random any where is the
United States or England, than would be seen throughout all then Territory in five years. And there is more
unvirtoous conduct practiced in one day in New York
City, or Athany, or Bufalo, or Cincinnant, or St. Louis,
than would be practiced in Utah in a thousand generations, unless they greatly degenerated from their present standard of morals.

When a sean any woman enter into matrimonial con-

toos, unless tany greatly degenerated from their present standard of morals.

When a man and woman enter into matrimonial contracts and covenent to be each other's companion until death, they have claim upon each other for this life only, when death comes, their marriage contracts and covenants expire; and in the resurrection, however much they may desire to enjoy themselves in all the endearing relationships of husband and wife, they will find that their contracts and covenants which were made for that only, give them no title to each other in eternity. Therefore, they will not be permitted under any conditions whatever to live together as hosband and wife. But can they not renew their contracts and be married again in that life? No, for Joseus says, "In the resurrection they neither unarry nor are given in marriage, but are as the angels of God in heaven." (Matthew 22: 30.) Those who have not secured their marriage for eternity in this life, can never have it attended to hereafter; therefore, if they should through faithfulness even be saved, yet they would be no higher than the sugels, and would be compelied to live separately and singly, and consequent

if they should through faithfulness even be saved, yet they would be no higher than the rangels, and would be compelled to live separately and singly, and consequent ly without posterity, and would become servants to all eternity, for those who are counted worthy to become kings and priests, and who will receive thrones and kingdoms, and an endless increase of posterity, and laherat a far more exceeding, and eternal weight of glovy. Such will need myriads of servants as their kingdoms and dominious increase, and the numbers requisite will be found among these who kept not the higher law, but still rendered themselves worthy of an inferior reward. No uninspired man has authority from God to join together the male and female in the marriage covenant. Marriage is an ordinance of God, and we read that "What God hath joined together let not man put asunder." (Matthew 19: 6.) Where man usurps authority to efficiate in the ordinance of God, and joins together the sexes in marriage, such unions are filegal in the sight of God, though they may be legal according to the laws and governments of men. The power to officiate in the ordinances of God has not been made upon the earth since the great apostacy, until the present ce laws and governments of men. The power to dicitate in the ordinances of God has not been made upon
the earth since the great apostacy, until the present
entury. Semething like seventeen conturies have passel
way since the authority was lost on the castern lessishere to administer in any of the ordinances of God,
buring that long period marriages haye been celebrated
coroning to the customs of human coveraments, by
ninepired men, holding no authority from God; conequently, all their marriages, like their haptisms, are
legal before the Lord. Foint out to us a husband and
the that God has joined together from the second cenary of the christian era until the ninetecuth, if any
em. Such a phenomenon cannot be found among
the Christians or Jews, Mahognous or Pagans. All
re without prophets or inspired men, all are, withart divine authority none have had power to scal on
with the marriage covenant that it might be senied
in heaven; none during that long period have heard
the voice of the Lord commanding them to officiarly
in those secred ordinances. those spered ordinances.

in those secred ordinances.

Marrieges, then, among all nations, though legal according to the laws of men, have been idlegal according to the laws, authority, and institutions of Heaven. All the children born during that long period, though legitimate according to the customs and laws of netion, are illegitimate according to the order and authority of Heaven. Those things which are performed by the sutherity of men, God will overthrow and destroy, and they will be void and of no effect in the day of the resurrection.

BROADWAY RAILROAD.

Decision on the motion for Attachment against certnin Members of the Boards of Alder-men and Assistant Aldermen.-Attachment granted.

A large number of persons were present at the Superior Court on Saturday, to hear the decision of Judge Duer in this case. Judges Campbell Rose th, and Emmet, who had sat with Judge D. during the argument, were also present, as were at the appropriate table, the strong array of counsel on both les who had taken part in the matter. The following

Themes E. Duries and others vs. The Mayor, Aldermen, he, of New York.—A motion has been made in this case for an attachment against Ocear W. Sturterant, one of the Aldermen of this Cuty, for an alleged contempt of the authority of this Court, by an act of positive disobediauthority of this Court, by an act of positive disobedi-ence to its lawful process.

The material faces that have given rise to the motion,

ence to its lawful process.

The material facts that have given rise to the motion, and upon which its determination, in a measure, rests, I shall endeavor to state to a few words.

On the 27th of December last, the plaintiffs in their ewn right, and on behalf of all others, the tax paying inhabitants of this City, exhibited their complaint, duly verified, to our Associate Chief Jastice Campbell, who on the same day, in conformity to the prayer of the complaint, and holding that the matters set forth therein, entitled the plaintiffs to the relief demanded, granted an order of injunction, commanding and enjoining inter alias that the defedants, the Mayor, Allermen and Commonsity of the City, and each of them, should absolutely desist and refrain from granting to, or in any manner, authorizing Jacob Sharp and others, (the persons named in a resolution of which a copy was annexed to the complaint,) or any other person or persons, the right, liberty or privilege of laying a double or any track for a railway in that street known as Broadway, in this City, from the South Ferry to Fit, night-st, or any railway whatever. The resolution of the Common Council to which the complaint and injunction refer, is upon tire face, not only by its manifest interest, but by its express words, a grant of permission or authority, upon certain conditions and stipulations, to Jacob Sharp and other persons named as his associates, to lay a double track for a railway in Broadway and Whitehall or State-agreem the South Ferry to Fifty minth st, and to readur the resolution when finally adopted, effectual as a grant, nothing more was required than that the persons named as especiate, though, by a writing to be filed with the Clerk of the Common Council, signify their acceptance.

The cemplaint alleged that the resolution had before that nothing more was required than that the persons named as associate, should, by a writing to be filed with the Clerk of the Common Council, signify their acceptance. The complaint alleged that the resolution had before that time, been adopted by each Board of the Cammon Council, and had been returned by the Mayor with his objections, to the Board of aldermen in which it originated, and sverred that these members of each Board, (consistently in each a majority of those elected,) by whose votes the resolution had originally passed, had given out and declared that they intended again to pass the same, notwithstanding the objections of the Mayor; and that

the grantees named in the resolution, had also made known their intention to the their written acceptance, immediately upon its adoption. The actual conduct of the parties corresponded with these anticipations. On the 28th of December, the order of injunctions, together with a copy of the summons and complaint, were duly served upon the summons and complaint, were duly served upon the summons, was served upon each member of the Board of Aldermen. On the evening of the 19th of December the Board of Aldermen met, and the resolution making the grant to Sharp and his associates being brought forward fir reconsideration it was arain passed, the Alderman now before us and twelve of his associates voting for its adoption. And in order, it would seem, that no doubt might remain as to the nature and motives of their action, the majority of the Board upon the same evening, and upon the motion of Alderman Sourbevani, adopted certain resolutions, which are set forth at large in the papers before us, but which we doem it unnecessary now to recite. It is sufficient to say that one of these resolutions declared that it was the duty of the Common Council to protect its own dignity and the rights of its constituents, the people of this City, "by utterly disregarding the injunction upon its legislative action, and doclaring their sense of the same," and that a presenble to the resolutions, which was adopted with them, declared their sense of the injunction by denouncing it, in no uncaured terms, as an attempt, without color of law or justification, to direct and centred the municipal legislation of the City, as bearing upon its face a character of indiscretion not less unjustifiable and not loss unworranted and anwarmatable interierence with the rightful functions, powers and duties of a legislative of the Common Council, were transmitted to the Board of Assistant Aldermen, and on the evening of the 3th of December the original resolution was adopted by that took, but whether any action was then or has since been taken on the ad

valid, the grant, which the defendants from making, became absolute, and the grantess acquired the very right, liberty and privilege of laying a track for a railway in Broadway, which the injunction, by express words, had strictly commanded should not be given.

It follows from the statement that has now been

him was irregular and void, not being accompanied by the service of a copy of the affiliavit, the verified com-plaint upon which it was founded. Third—Because the only breach of the injunction with

vart is not a party to the suit, and, therefore, was not bound to obey the mjunction, we are all of opinion cannot be eastened. It is unnecessary now to determine the question, whether, under the provisions of the Code, (section 213) a person to whom an injunction is directed is wholly excused from obscience unless he is a party to the suit, and one of those against whom relief is demanded. It will be time enough to consider and decide this question, (which is, perhape, more doubtful than it seems to have been regarded,) when it shall properly arrie in a one before us. It does not arise in the case now before us, for the plain reason that Mr. Surtevant is in judgment of isw's party to the suit. He is not indeed a party in his proper name, or as a mere in lividing al, but he is so in his official character, and it is his personal action in that character, that the injunction, not easily by its legal construction, but by its express words, seeks to restrain. It is not addressed to the Mayor, Aldermen and Commonalty of the Chy as an abstract metaphysical being, but it is addressed to each individual member of the whole corporate body, and identical the personal action of every one of them whose consent or coperation might be necessary for the completion of the corporate set which itstrictly prohibits. It imposes a commend and duty upon every one of them to refrain absolutely, from performing or concurring in the performance of the prohibits lact, for the very purpose and as the necessary means of preventing it from becoming an act of the Corporation. vart is not a party to the suit, and, therefore, was not bound to chey the injunction, we are all of opinion can-It is not true, as the objection we are considering

It is not true, as the objection we are considering ainly assumes, that when a judicial command in relating to a corporate act—a mandamus or injunction is rected to a corporation solely by its corporate name—e members and officers through whom alone the constition can act may disregard it with entire impunity, do by their disobeliance rander the process of the curt wholly ineffectual. The law, we apprehend is herewise settled. That the mandate of the Court in rese cases may with entire propriety be directed excusively to the corporate body by its corporate name is not been decised, and there are numerous decisions at show that when such is the form of the order or has not been denied and there are numerous decisions that show that when such is the form of the order or writ, it is operative and binding not only upon the corporation itself, but upon every person whose personal action as a member or officer of the corporate body it seeks to restrain or control. Every such person is as fully bound to personal obedience as if personally named in the grocess and consequently is just as Hable for his dischedurace. (Rex cs. Mayor of Abingdon, 1 Lord Raymond, 560, Rex rs. Mayor of Abingdon, 2 cases in Chan, 171-2, Lord Raymond, 848; Rex rs. Mayor of Treachy, 8 Mod. 111; Bank Commissioners es. City Bank of Rochester, 1, Barb, ch. p. 656.)

Treyony, 8 Mod., 111; Bank Commissioners vs. City Bank of Rochester, 1. Bank, ch. p. 636.)

We understood the learned counsel for the defendants to some that in the case of a mandamus the law is such as we have stated, and we are clear in the opinion that, in respect to the persons upon whom it operates, there can be no distinction between a mandamus and an injunction. Indeed, all the decisions rest upon the same principle, a principle which Lord Kenyon, in the case of the Rex va. Hosiand, has betely and forcibly stated. (5 Term R., 622.) it is that where "a duty is thrown upons body consisting of several persons, each is individually liable for its personshier for its performance and individually liable for its persons are all individually liable for its planky immasterial whether the duty result from an act of the Legislature or the mandate of a Court of Justice. We remark in conclusion, that unless upon the construction that we adopt, an injunction addressed exclusively to a corporation must be in all cases a nugatory and senselices proceeding. A corporation cannot be attached, nor have we been able to discover that there are none, Lord Loughborough, in the case of the Mayor of London vs. the Mayor of Lynn, seems distinctly to admit. (1 H. Black., 200.) Unless the injunction, therefore, in such cases, operates upon those manbers and effects of the corporation how how is such as meanbers and different of the corporation how how is meanbers and effects of the corporation how how is meanbers and effects of the corporation how how meanbers and effects of the corporation how how meanbers and effects of the corporation how hom its carpotinetly to usual. (I B. Bacca, MM) Unless the injunc-tion therefore, in such cases, operates upon those mem-bers and officers of the corporation by whom its corpo-rate will is manifested and corporate acts performed, and unless it creates a duty for which they are parties to the cuit are personally responsible, it is emphatically "brusum fulmen,"—the words may be those of com-mand or menace, but they are addressed to no one, and deaths action.

dcubt exceedingly whether when the injunction itself is duly served, the omission to serve a copy of the affiliativit upon which it was founded, may, in all cases, be alleged as a valid excuse for disobedience. When the order of injunction cannot properly be understood and consequently obeyed, without a knowledge of the contents of the affidavit, the service of a copy must doubless be made. But when the injunction is plant and implicit, and leaves no doubt as to the act which the party upon who m it is served, is required to perform or desist from performing, it may well be doubted whether the irregular emission of the affidavit should be held to release him from the duty of obedience. If such cases, a knowledge of the contents of the affidavit would neither instruct him as to his duty nor avail to discharge him from its performance, since whatever may be the facts stated in the affidavit, the injunction, when emenating from a competent sutherity, until dissolved, doubt exceedingly whether when the injunction itself is duly served, the omission to serve a copy of the affiliaemenating from a competent authority until dissolved, must be obeyed. Krom vs. Hogen and Howard, P. R. 205, Woodward vs. King 2 Ch. Ca. 203, Sullivan vs. Ju-

The purpose for which the code very properly require The purpose for which the code very properly required that a copy of the affidavit shall, is all cause, he served, is not that the party upon whom it is served, may determine whether he will or will not obey the injunction but merely to enable him without delay if so advised, to move for its dissolution.

It is not, however, upon the ground that in this case It is not, however, upon the ground that in this case the alleged irregularity in the service of the injunction was not such as to excuse the disobedience that followed that we overrule the objection. The papers show that there was in truth, no irregularity that the defension. Sturtevant, can be permitted to allege. A copy of the complaint together with the injunction, was duly served upon the Mayor on the 28th of December, the day before the meeting of the Board of Aldermen. The service was properly made upon him as the chief officer, (2 R. S., p. 438, § 5) and for that purpose the Representative of the whole Corporation, and we are clearly of opinion that this service was sufficient and effectual as to every member of the corporate back, whose personal conduct as such the injunction was deis contents may justly be imputed. That the defaul-sant, Surtevant, and the Alderman who acted with him, persessed this knowledge is not denied, and it even seems that they well knew what were the allegations in seems that they well knew what we can allow the complaint itself. They have resolved that the resens alleged for the injunction, "were untenable in his and unfounded in fact." It is only in the complaint however, that there reasons are alleged, and it is therefore from the complaint that their knowledge of the must have been derived. Under these circumstance it would indeed be a mechany of justice to permit a leged irregularity in the service of the injunction, to recent its deliberate and confessed violation—continued.

not in the arguments of their Counsel.

Passing then from objections, merely prelim
formal, we proceed to an inquiry, which too

whatever may be thought of their intentions and their beneuse.

What, then, is the command of the injunction: What the corporate act which list terms probable. It we read the complaint, it is manifest that the sole object of its prayer, which the injunction exactly followed, was to prevent the adeption of the resolution in relation to a Rullendin Breadway, which it alleged that the Common Council meant to reconsider and and determined to pass—but we have some doubts whether the allegations in the complaint can, with propriety, be invoked to govern the construction of the injunction, and it is therefore to the terms of the injunction, that in considering the question we have proposed, we mean to confine ourselves. The language of the injunction is clear and unambiguous. The corporate act, which it

cates, which it describes, but it commanded each Alderman and each Assistant not to give his assent to any such grant, if proposed for his adoption; not to give his assent to it for the purpose and with the latent of readering it operative and effectual as a corporate act. The resolution adopted by the Common Council is the very grant that the injunction describes, and to this grant every Alderman who voted for the resolution, with the intent that it should take effect as a corporate act, has given his assent. Every one of them, therefore, who has thus assented, the conclusion is plain and irresistible, has done the very act that the order of the Count communication of the work at that the order of the Count communication of the work at that the order of the Count communication of the work at that the order of the Count communication of the work at that the order of the Count communication of the work at that the order of the Count communication of the work of the

isbment.

Before we proceed, however, to the discussion of the question whether the order of this Court, from its total want of jurisdiction, was illegal and void, there are some considerations hitherto unnoticed to which it seems expedient to savert. Hitherto we have passed over in elience are argument upon which the coursel for the defendants seemed ent to advert. Hitherto we have passed over in silence at argument upon which the counsel for the detectodant secund to key a prouhar stress—namely, that the injunction was not volated at all by the mere adoption of the resolution recentaining the great to Jacob Sharp and his associates, and consequently not violated by those by whose voces the recountion was passed. The adoption of the resolution, it was mid-toy act which, but for the enhangent acceptance of the grantes, might have remained forever ineffectaal. Until this acceptance was executed and filed, no grant was made, no authority, right or privilege given, and consequently until them, neither in its terms ure in its spirit, was the injunction violated. This acceptance, however, was the act of persons to whom the injunction did not extend, and for whose acts neither the Corporation nor its members can be made responsible.

of persons to whom the injunction did not extend, and for whose acts neither the Corporation nor its members can be made responsible.

Notwithstanding the apparent confidence with which this argument was urged, we find it difficult to believe that it was seriously meant to be pressed upon our adoption, since it could hardly have eccaped the counsed that, with equal propriety and force, might the same argument be urged in every case in which a grant, transfer, or any disposition of property whatever is forbidden to be made, either by a corporation, a partnership, or an individual. In no case is a grant effectual by the mere will and act of the grantor. In every case it depends for its ultimate validity upon the assent and acceptance of the grantor. Hence, if the argument is valid, it follows that an injunction, which is meant to restrain a findulent or illeral grant addressed only to the grantor, may be disregarded, in all cases, with entire impunity. You cannot punish the grantor as a frandelent trastic or debtor, because the grant which he executed and delivered might have been rejucted by the grantor. And but for his acceptance would have been wholly ineffectual. You cannot punish the grantee, for he was not natured in the injunction. The reply to the argument in the cases appeared is exactly that which must be given in the present. The frequency that trustee or debtor is forbidden to make the grant with the intent that it shall be effectual, and in a mode by which it may be rendered so, and when it is proved that he

has done all that he could to render the grant operative and have done all they could to render the grant has bisiden to make operative and effectual. They resolution with the intest that it should operate and in the confident extractation that, by its acc would become such. If they meant otherwise, should not have adopted the resolution at all, or, and presend it, should, as they might have done, for everytance. As the case stands, they have made which they were commanded absolutely to desig from making; and this grant, as they intended it mission and with their consent, has become hence, if words have a meaning, or the law as they have violated the injunction both in letters and, I am constrained to add, they meant to violate they had done to.

We are told, however, that the members of the

and from motives manifestly corrupt, to convey, for a grossly insedeguate or merely nominal consideration, all the comporate property of the City, neither this, nor say other Court, would have power to express by an injunction the meditated fraud, or when consummated, to recide the grant, or punish its authors, or divest them of its finite; there could be no remedy, we are told, but from the force of public opinion and the action of the people of an enumy election, and all this upon the ground hancether the propriety nor the honesty of the proceedings of a legislative body, nor, while they are pendics, even the legality, can ever be made a subject of judicial inquiry. This must be confessed, is a startling doctrine. We all felts to be so when anneunced, and I rejoice that we are seen let us to be so when anneunced, and I rejoice that we are seen let us to be so when anneunced, and I rejoice that we are seen let us to be so when anneunced, and I rejoice that we are seen let us to be so when a sunctined in its principle, and certainly would be permicious in its effect. The doctrine just stated may be true when applied to the Logislature of the State, which, as a coordinate branch of the Covernment, representing and exercising in its sphere the sovertimity of the people, is, for positival reasons, or manifest force, while exempt to all its proceedings from any legal process of a sicial control; but the doctrine is not, nor is any portion of it, true, when applied to a subordinate municipal body, which, although clothed, to some extent, with legislative and even political power, is yet, in the exercise of all its powers, just as subject to the authority and control for the control of the con

ficial. The supposition that there exists an important distinction, or any distinction, whatever, between a municipal corporation and any other corporation, aggregate in respect to the powers of courts of justice over its proceedings is entirely powers of courts of justice over its proceedings is entirely

The supposition that there exists an important assections or any distinction whatever, between a municipal copposition and any other corporation, aggregate in respect to the powers of courts of justice over its proceedings, is entirely gratuitous, and, it seems to mae, is as destitute of reason at it certainly is of authority. The counsel could refer us to no case, nor have we found any, in which the judgment of the Court has proceeded upon such a distinction, nor, in our researches, which have not been limited, have we been able to discover that, by any judge or juriat, the existence of such a distinction has ever been asserted or intimated. Were it otherwise—had such decisions been found in the Euglish report or in those of our search States—had it been proved that in England or in other States the suppose distinction is the subhished law, we should still be compeled to any that it is a law which we must refuse to follow for the plain resean that it is directly inconsistent with the paramount authority of our own Constitution. The Continuous of the State declares that "all corporations skallows the right to see, and shall be subject to be sued, in all Courts, in like cases, as natural persons." (Con art.8, see 3).

There is no exception here of municipal corporations skallows the right to see, and shall be subject to be sued, in all Courts, in like cases, as natural persons." (Con art.8, see 3).

There is no exception here of municipal corporations skallows the right to see, and shall be subject to be sued, in all courts, in like cases, as natural persons." (Con art.8, see 3).

There is no exception here of municipal corporations skallows the right only defined which the Constitution has not made, we have all exception which the Constitution has not made, we have all exceptions to the vaniday of the only defined when the numbers of the Common Council are an exception which they only in the subject to the such that the same grounds may be claimed, and justicy proceeding which they may choose to clothe with the

Engreed aretch of judicial power.

Having made these observations, the question still remarks has this Court, or any court of equity, the power to interfere with the regislative discretion of the Common Courcil of this city, or of any other municipal corporation? And to this question I at once reply, certainly not, if the term discretion be properly limited and understood; is disast understood, i carry the proposition much further than the counsel who advanced it. This Court has no right to interfere with and control the exercise not merely of the legislative, but of any other discretionary power that the law has vested in the Corporation of the city; and beace I can it quite immaterial whether the resolution in favor.